

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7143 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

-----  
MAHAPRASAD HARILAL VAIDYA

Versus

STATE OF GUJARAT

-----  
Appearance:

MR NV ANJARIA for Petitioner

-----  
CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 24/10/97

ORAL JUDGEMENT

The petitioner claims promotion on the post of Supervisor. The necessary qualification for promotion on the post of supervisor is provided in Regulation 20 of the Secondary Education Regulations, 1974 (hereinafter referred to as "Regulations"). Regulation No.20(1) provides that no person shall be appointed as Headmaster unless he is a trained graduate (B.T. or B.Ed. or its equivalent as declared by the State Government) with

teaching experience of not less than 2 years in a Secondary School and with post training experience of not less than 3 years. Regulation 20(2) provides that the qualifications for being appointed as Supervisor shall be the same as those prescribed for the Head Master in clause (1). Regulation 19(5) provides for appointment of Supervisor depending upon the number of classes the school is having with the approval of the District Education Officer. The petitioner has not been considered for the post of Supervisor only on the ground that he is holding a certificate known as C.P.Ed. It is submitted that the teachers possessing senior HSS qualification have been made eligible. Even those who are D.P.Ed. are also eligible. Further those who are S.T.C. are also eligible for the post of Principal and Supervisor provided they have 15 years of teaching experience in Secondary School. The say of the petitioner is that HSS and STC are also certificate courses of same duration as that of C.P.Ed. and D.P.Ed. and is one year course. It is not in dispute that the petitioner is a trained graduate and accordingly, he has been granted selection grade of trained graduate i.e. Rs.1640-2900. Thus, the first contention of the petitioner is that the respondent cannot go back to enquire into whether the petitioner is holding a B.Ed. degree or C.P.Ed. certificate as he has already been treated as trained graduate on his being given the selection grade of trained graduate.

2. In spite of notice, the respondent has not chosen to appear. Having heard Mr N V Anjaria, learned Advocate for the petitioner, I am of the view that this petition deserves to be allowed. As per the Regulations, the requirement is that a person should be a trained graduate. The respondent was given selection grade of trained graduate and he has been treated as trained graduate. Further it appears that C.P.Ed. has already been treated as equivalent to B.Ed. in a case where the incumbent is a graduate. There is substance in the say of the petitioner that there is no reason not to treat the Certificate Course of C.P.Ed. equivalent to B.Ed. in case of a Graduate when the teachers possessing Senior HSS qualification, D.P.Ed., S.T.C. are considered qualified. Thus, the action of the respondent in not considering the petitioner for the post of Supervisor on the ground that he is not a trained graduate is arbitrary and unreasonable.

3. In view of the aforesaid, this Special Civil Application is allowed. The respondents are directed to

consider the case of the petitioner for promotion on the post of Supervisor considering the petitioner as trained graduate.

Rule made absolute accordingly.

...  
msp.